

# LONGVIEW FIBRE COMPANY

MAIN OFFICE AND MILLS, LONGVIEW, WASHINGTON 98632  
1-206-425-1550



August 23, 1993

Elaine Spencer  
Bogle & Gates  
Two Union Square  
601 Union Street  
Seattle, WA 98101-2346

Re: Longview Fibre Company v. O'Sullivan/CH2M Hill

Dear Elaine:

Enclosed are copies of correspondence between Longview Fibre and O'Sullivan/CH2M Hill, as well as CH2M Hill's field notes, a CH2M Hill memorandum, and a handwritten note from Dave Mendenhall to Rick Wollenberg covering damages with respect to O'Sullivan/CH2M Hill's removal of an underground oil storage tank at our Seattle box plant. This letter is a request that you proceed with a lawsuit against both O'Sullivan and CH2M Hill to recover damages in the approximate amount of \$175,000 for their negligent removal of the tank.

In 1987 Longview Fibre decided to remove its underground bunker C oil tank at the Seattle box plant which was used to fuel the boiler. The intent was to replace the underground tank with an above ground tank which met current environmental regulations. These tanks hold oil which is the backup fuel for the boiler, which is generally fired by natural gas.

Longview Fibre contracted with O'Sullivan to remove the tank. CH2M Hill was to oversee O'Sullivan's work. As set forth in Mike Warfel's memorandum to Dave Mendenhall, on July 21, 1987, Longview Fibre accepted O'Sullivan's June 9, 1987 proposal. Jack Payne's July 10, 1987 letter to Dave Mendenhall outlines CH2M Hill's duties with respect to overseeing tank removal at the various Longview Fibre plants.

O'Sullivan removed the underground tank but failed to cap the return line which was connected to the boiler. As set forth in the fields notes, the O'Sullivan person claimed that the lines, six in all, could not be threaded and properly capped, and therefore merely put rags into the lines. According to the Longview Fibre maintenance engineer, O'Sullivan bundled the various underground and then buried them. Subsequently, Church Construction laid a concrete pad for the above ground tank. Longview Fibre purchased a tank from Ace Tank and installed it.

In January, 1991, Longview Fibre needed to operate the boiler with oil from the above ground tank. It then discovered oil in the ground. Subsequent investigation indicated the oil came from the uncapped return line.

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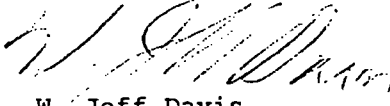
Longview Fibre commenced cleanup and has or will incur between \$175,000 to \$200,000 to complete the project. Various test wells have been created, and some oil removed from the soil.

Longview Fibre has attempted to settle with both O'Sullivan and CH2M Hill. We tentatively reached an agreement with CH2M Hill as outlined in Gary Guyll's June 21, 1993 letter to me and my July 8, 1993 response. However, CH2M Hill has not responded to my last letter and has not executed any settlement agreement. O'Sullivan, through Charlie LaNasa, claims its insurance company has not responded to Longview Fibre's claim. Personally, I feel they hope Longview Fibre will not bring suit and thereby avoid liability through lapse of the statute of limitations. Mr. LaNasa responded to my August 2, 1993 letter by saying that Longview Fibre must do what it must do.

As noted above, a lawsuit must be started naming both O'Sullivan Construction Inc. and CH2M Hill. The reason to start the suit is to avoid violating the statute of limitations. Enclosed is a copy of the Division One decision in G.W. Construction Corp. v. Professional Services Industries, Inc., 70 Wn. App. 360 (1993). The court ruled that negligence actions based upon contractual obligations must be commenced within three years of when a plaintiff learns all essential elements of its claim. Therefore, this action must be brought before January, 1994.

Please contact me to discuss any questions you have concerning the case. Dave Mendenhall in Longview, and Norm Buckholz, the Seattle box plant manager, (206) 762-7170, can provide you with more details concerning the events. I look forward to hearing from you.

Very truly yours,

  
W. Jeff Davis  
Assistant General Counsel

jb

Enc.

cc: R. B. Arkell  
R. H. Wollenberg  
~~N. E. Buckholz~~  
D. N. Mendenhall

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